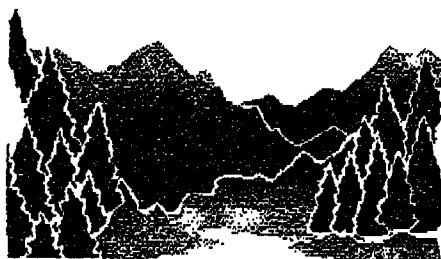


EXHIBIT 1

DATE 3-12-13

SB 94



LAKE COUNTY ENVIRONMENTAL HEALTH

106 FOURTH AVENUE EAST
POLSON, MT 59860-2175PH: 406-883-7236 FAX: 406-883-7205
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March 11, 2013

Representative Lee Randall, Chair
House Agriculture Committee
Montana State Legislature
P.O. Box 200400
Helena, Montana 59620-0400

Post-It™ brand fax transmittal memo 7671		# of pages > 2
To: Rep. A. Redfield	From: S. Brueggeman	
Co. MT House/Rep	Co. Lake County	
Dept.	Phone # 883-7236	
Fax # 406-444-4825	Fax # 883-7205	

RE: LETTER OF OPPOSITION

Senate Bill 94 – An act exempting the exchange of certain foods and beverages from food safety regulations; and amended section 50-50-102 MCA

Dear Chairman Randall and Members of the Committee:

This letter is written in opposition to Senate Bill 94 regarding the exemption of certain foods and beverages from public health safety regulations.

This bill and similar bills that promote "cottage foods" should be opposed in favor of an interim study bill or an interim discussion between various agencies and organizations as a means to determine how the interest in cottage foods can be facilitated in a manner that does not endanger the public health and safety of Montana citizens and visitors. Any necessary statutory changes can then be brought to the 2015 Legislative Session.

My reasons for opposition are as follows:

1. It is unclear what the language "gathering to exchange" means. The casual, unstructured exchange of food items, such as a "private" exchange among friends or family has never been licensable under 50-50 MCA. Therefore, this bill is probably proposing something that is more like a "public" retail transfer or bartering of goods. If this is the "exchange" intended, it is similar if not identical to a retail sale or provision of a food product with or without charge. Once a transaction becomes "public" in this retail or commercial sense, it requires licensing oversight to assure public health and safety are protected.
2. The determination of a high-acid food is more complicated than commonly understood. Foods that are generally considered high-acid may not be due to the wide variety of food products available today. A heritage tomato may be more acidic than a hybrid tomato; the acidity cannot be known without testing of the finished tomato product. This bill makes no provision for the sanitary control and pH testing of such products that is needed to prevent the growth of the very deadly botulism toxin. Therefore, public health and safety is compromised by this bill.
3. If foods are to be made acid (acidified food) to comply with this proposed statute change, the health risk is greater than simply preparing a naturally high-acid food. The federal government

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considers pickled foods as acidified foods subject to federal regulation. There are specific processes required by federal law to assure food safety. This bill has no provision to control the preparation and testing of acidified foods to assure food safety.

4. **The concept of a "public" transaction involving home-brewed beer has many concerns associated with any manufactured food product.** The concerns include sanitation, labeling, and issues that may involve the Montana Department of Revenue.
5. **The proposed language exempting dehydrated fruits and vegetables from licensing is more complex than commonly understood.** Such food preparation has been prohibited for items sold at farmers' markets. Once a food product is processed by washing, slicing, dicing, or other handling, it becomes subject to wide potential for contamination. These food activities have been restricted to licensed establishments to assure they occur within a sanitary environment with sanitary procedures followed.
6. **The proposed language does not address product labeling which we generally take for granted.** A person "exchanging" any of the foods under this section will have no information as to the ingredients in the product, where it has been prepared, or how to contact the person who prepared the product should there be a problem. Current regulations for food establishments covers the need for product labeling as a means to assure public health information regarding ingredients, allergens, and product trace-back are in place.

While this department supports efforts to provide local foods to local people, there are basic food safety regulations needed to assure public health. **For those who choose to prepare local food products for local people, the means to do so safely through a licensed process and licensed facility are readily available in most communities.** Often a church, community center, or licensed kitchen is very acceptable for licensed local food preparation. In my many years practicing environmental health in Montana, I have not seen lack of a licensable facility as an obstacle to a person who would like to prepare a local product for distribution.

I urge you to vote in opposition to this bill because it proposes the provision of food that may not be safe and because state law provides a means to prepare and offer food in a manner that is safe through the established state licensing process.

Thank you for your consideration of my comments.

Sincerely,



Susan K. Brueggeman, R.S.
Director